

SUBJECT: Exempting charitable housing groups from agriculture exemption penalty

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — Hilderbran, Otto, Christian, Elkins, Gonzalez, Lyne, Martinez Fischer, Murphy, Woolley

0 nays

2 absent — Ritter, Villarreal

WITNESSES: For — Renee Diaz, Habitat for Humanity San Antonio; Matt Hull, Habitat for Humanity of Texas; (*Registered, but did not testify*: Deena Perkins, Texas Association of Community Development Corporations; Jim Robinson, Texas Association of Appraisal Districts; Michael Willord, Austin Habitat for Humanity)

Against — Donald Lee, Texas Conference of Urban Counties; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas)

BACKGROUND: Tax Code, sec. 11.181, provides for a property tax exemption for unimproved and improved real property owned by charitable organizations that build or repair houses on the property primarily with volunteer labor to sell without profit to low-income families meeting the group's eligibility standards.

Under the Tax Code, sec. 23, agricultural land may be appraised based on its productive value rather than its market value. Tax Code, sec. 23.55 (a) provides that if land appraised for agricultural use or open space changes use, the property owner must pay an amount equal to the difference between the taxes for the new use and the amount based on the agricultural exemption for five years prior to the change, plus 7 percent interest. These back taxes recapture the taxes that would have been paid without the agricultural exemption. A tax lien attaches to the land on the date of the sale or change of use to secure payment of the additional tax imposed and any penalties incurred.

DIGEST:

CSHB 2746 would amend Tax Code, sec. 23.55, to exempt charitable organizations that built or repaired housing with volunteer labor from the penalties imposed in 23.55(a) for changing the use of land appraised for taxes for agriculture or open space.

The bill would require the charitable organization to convert the land to a use eligible for the exemption under Tax Code, sec. 11.181 and the county commissioners court to waive the penalties.

CSHB 2746 would apply only to transfers of property that took place on or after the bill took effect. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

SUPPORTERS
SAY:

CSHB 2746 would end the “sticker shock” effect for charitable organization such as Habitat for Humanity when they consider buying land that had been appraised for agricultural use. The sanctions provided by the Tax Code make it prohibitively expensive to develop affordable housing on the property. The bill would exempt these organizations from the penalties imposed for changing agricultural use. As a result, local governments eventually would gain from adding low-income property owners to the tax rolls and increasing the value of the land from the agricultural exemption.

CSHB 2746 would provide for local review and control of the exemptions by requiring the county commissioners court to approve the waivers. The commissioners court members are accountable to the voters, and they have overall jurisdiction in the county. It would be too cumbersome to require specific approval from all taxing entities.

The Tax Code already provides appropriate sanctions if a nonprofit group converted any land with a charitable exemption to any other use besides helping low-income families acquire their own homes. The same penalty also would apply to converting land with an agriculture exemption to commercial use.

OPPONENTS
SAY:

The Legislature should be cautious about waiving any penalties for converting land with agricultural exemptions to other uses. Local governments, not the state, receive the additional property tax money, which can be substantial. Other governing boards besides the county

commissioners, particularly school districts that rely heavily on property taxes, should be able to review the requested waivers.

NOTES:

The substitute differs from the original in the provisions that would require the county commissioners court to approve the waiver.